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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,611	12/17/2001	Michael Wayne Brown	AUS920010841US1	2334
7590 03/21/2005				
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EXAMINER				
BASHORE, ALAIN L				
ART UNIT		PAPER NUMBER		
3624				

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 <b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/022,611	BROWN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Alain L. Bashore	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.  
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-40 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                    |                                                                             |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper Not(s)/Mail Date. _____                                               |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3-11-02; 10-12-04</u>                                                     | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 7-13, 15-18, 20-21, 24-37, and 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swope et al in view of Tanaka et al.

Swope et al. teaches a system and method for reverse billing of a telephone call including receiving a request to originate a billed transaction for a caller from an origin device (col. 3), authenticating an identity of a called party answering a call originated by the origin device (fig.3B; col. 5, ln 24-42), and responsive to receiving an acceptance of the call by the called party from destination device, billing an account accessed by the authenticated identity of the called party to complete the billed transaction, such that the origin device is enabled to initiate the billed transaction charged to the called party in (see col 1; lines 5-14; fig. 3B; col 7,ln 7-33).

Swope et al does not disclose:

the telephony device is a wireless telephone;

transferring a tariff for tracked usage to a billing plan, such that the owner of the telephony device is electronically compensated for the usage;

negotiating payment of the tariff including micropayment transfer.

Tanaka et al discloses wireless telephone (fig 1), transferring a tariff for tracked usage to a billing plan, such that the owner of the telephony device is electronically compensated for the usage (para 0036), and negotiating payment of the tariff including micropayment transfer (para 0037).

It would have been obvious to one with ordinary skill in the art to include a wireless telephone as the telephony device because Tanaka et al teaches that wireless and wireline are both part of the "telecommunications switching infrastructure" (fig 1).

It would have been obvious to one with ordinary skill in the art to include transferring a tariff for tracked usage to a billing plan, such that the owner of the telephony device is electronically compensated for the usage because Tanaka et al teaches that tariffs are known and must be accounted for in billing (para 0036).

It would have been obvious to one with ordinary skill in the art to include negotiating payment of the tariff including micropayment transfer because Tanaka et al teaches that tariffs are negotiable (para 0037).

3. Claims 6, 14, 19, 22-23, 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swope et al in view of Tanaka et al as applied to claims above, and further in view of Bauer et al ('900).

Swope fails to teach authenticating a caller for reverse charge calling service.

Bauer teaches a system and method for reverse billing of a telephone call wherein a caller can be authenticated for calls which are to be charged to the called party in (col. 5 line 60- col. 6, line 12) by means of speech recognition. Bauer teaches a telephone billing system in (see figs. 3-5) where a user can be authenticated using ANI+DNIS.

It would have been obvious to one of ordinary skill in the art to include authenticating a caller for reverse charge calling service because Bauer teaches making it possible to authenticate calling parties including children who might not be able to readily remember identification information to be entered (col. 5 line 60- col. 6, line 12).

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1, 9, 17, 20, 28, 36 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 6 of copending Application No. 10/023,406 in view of Tanaka et al.

This is a provisional obviousness-type double patenting rejection.

The patent to Tanaka et al and Bauer et al is applied as described in the previous art rejection for reasons for claiming tariff considerations in the co-pending application.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3624

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alain L. Bashore whose telephone number is 703-308-1884. The examiner can normally be reached on about 7:00 am to 4:30 pm (Monday thru Thursday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alain L. Bashore  
Primary Examiner  
Art Unit 3624